

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

DARLINGTON AMADASU,	:	Case No. C-1-01-210
	:	
Plaintiff,	:	Judge Dlott
	:	
v.	:	Magistrate Judge Black
	:	
JAMES R. DONOVAN, M.D., et al.	:	
	:	
Defendants.	:	<b>MEMORANDUM OF THE OHIO</b>
	:	<b>DEFENDANTS IN OPPOSITION TO</b>
	:	<b>PLAINTIFF'S "MOTION FOR RULE</b>
	:	<b>27(b) PERPETUATION OF</b>
	:	<b><u>TESTIMONY</u>"</b>

The Ohio Defendants oppose Plaintiff Darlington Amadasu's motion to re-open this case and take additional discovery. Rule 27(b) of the Federal Rules of Civil Procedure, which is the sole legal basis for Amadasu's motion, provides that further depositions (and certain other discovery) may be taken pending appeal if necessary "to perpetuate [the witnesses'] testimony for use in the event of further proceedings in the district court." However, Amadasu's stated purpose for his motion is that he will be "handicapped in prosecuting his appeal" if the additional discovery is not allowed. Notably, Amadasu filed this motion the same day his brief to the Sixth Circuit was due in his appeal from the decision of this Court.

Amadasu never sought to take a single deposition during the five years that this case was pending. His efforts to begin taking depositions nearly five months after the case has been closed should be rejected.

Respectfully submitted,

By: /s/ Justin D. Flamm

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and served copies of the foregoing upon Darlington Amadasu, Plaintiff Pro Se, at 3429 Trimble Ave., Cincinnati, Ohio 45207, via regular U.S. mail, postage prepaid, and upon Christopher Coppola and Wylie Kumler, counsel for Claudia Miller and the University of Texas Health Science Center at San Antonio, at Assistant Attorney General for the State of Texas, General Litigation Division, Attorney General of Texas, General Litigation Division, 300 W. 15th Street, Austin, TX 78701, via regular United States mail, postage prepaid, this 12th day of October, 2006.

By: /s/ Justin D. Flamm

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